

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

BENJAMIN WILLIAM WAGNER,)
Plaintiff,)
v.) No. 4:15-CV-1789 CAS
JAMES GOBER, et al.,)
Defendants.)

ORDER

This matter is before the Court on pro se plaintiff Benjamin William Wagner's motion to prohibit the Missouri Department of Corrections from "diverting 20% of [plaintiff's] income from the preceding month to the court clerk to credit toward filing fees" for the months of November and December 2016, so that plaintiff can buy Christmas gifts for his children. Mot. at 1.

Plaintiff, a prisoner at Farmington Correctional Center in Farmington, Missouri, filed this suit under 42 U.S.C. § 1983. The law requires prisoners who file civil actions to pay the full filing fee. 28 U.S.C. § 1915(b)(1). Where a prisoner is unable to pay the full filing fee, the statute directs courts to assess an initial partial filing fee, and then requires prisoners to make monthly payments:

After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency have custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.

²⁸ U.S.C. § 1915(b)(2) (emphasis added).

The statute's language is mandatory, as it uses the word "shall." It requires prisoners to make monthly payments toward the filing fee, and requires the prisoner's custodian to forward those payments to the Clerk of the Court. Although the Court is sympathetic to plaintiff's wish to

purchase gifts for his children, it is unaware of any authority that would permit it to temporarily suspend the statutorily required payments and plaintiff has not cited any such authority. Plaintiff's motion will therefore be denied.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to temporarily suspend the required payment of filing fees is **DENIED**. [Doc. 40]



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 30th day of November, 2016.